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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/824,206

04/14/2004

Dougan H. Clarke

1.022-A.03

5881

7590

04/18/2006

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Miami, FL 33129

EXAMINER

YIP, WINNIE S

ART UNIT

PAPER NUMBER

3636

DATE MAILED: 04/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/824,206	CLARKE, DOUGAN H.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Winnie Yip	3636	

**– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 14, 16, 17 and 19-41 is/are pending in the application.
- 4a) Of the above claim(s) 16 and 23-25 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14, 17 and 19-22 is/are allowed.
- 6) ☒ Claim(s) 26-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/31/2006</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

***Part II DETAILED ACTION***

This office action is in response to applicant's amendment filed on January 31, 2006.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Terminal Disclaimer***

1. The terminal disclaimers filed on January 31, 2006, disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 6,314,916, and U.S. Patents No. 6,386,214, and U.S. Patent No. 6,889,699 have been reviewed and is accepted. The terminal disclaimers have been recorded.

***Claim Objections***

2. Claim 20 is objected to because of the following informalities: the term "at least one pulley" (line 10) should read "at least one pulley member" for consistency. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. Claims 26-41 are rejected under 35 U.S.C. 102(b) as being anticipated by European Patent No. 628,264.

The EP reference '634 teaches an umbrella frame comprising a central pole member (6), a secondary hub member (no number) secured to the pole member near a top end of the pole member, a main hub member (5) being slidably secured on the pole member, a plurality of rib members (20) and strut members (no number) pivotally connected to the secondary and main hub members respectively in the respective slots formed on the secondary and main hub members to provide a means for supporting a canopy member (21) thereon, a pulley system

Art Unit: 3636

including upper pulleys (10) secured to top of the pole member near the secondary hub member by an upper bracket (4), and lower pulleys (10) secured to a lower retaining bracket (4) mounted on an exteriorly exposed surface of the main hub member (5), a cam cleat member mounted on the lower bracket (4), the cam cleat member having two movable mounted cams with teeth (15,16) formed therebetween, the cams being operated by a lever (13), a single line member (11) having a first end (11a) connecting the upper bracket and then extending, in order, between upper and lower pulleys and having another free end (11b) extending outwardly from the last pulley at the main hub member and being wedged/gripped or selectively released by the teeth (15, 16) of the two cams of the cam cleat member for raising and lowering the main hub member for maintaining the main hub in a predetermined position along the pole.

***Allowable Subject Matter***

4. Claims 14, 17, 19, 20-22 are allowed.

***Response to Argument***

5. Applicant's arguments with respect to claims 14 and 20 being rejected under U.S.C. 102 as being anticipated by Apple '557 or Lee '328 or European Patent No. 628,264, and specifically to the umbrella including the feature of a cam cleat member as amended now has been considered. This feature was not specifically and previously claimed in claims 14 and 20. Therefore, this argument is deemed to be moot and the rejections are withdrawn.

6. In response to applicant's argument with respect to claim 26 being rejected under U.S.C. 102 as being anticipated by European Patent No. 628,264, that the European Patent fails to teach a bracket member, as well as an upper or secondary hub, and the pulley system with a

Art Unit: 3636

single line member as now claimed. It is not deemed persuasive. European Patent teaches an umbrella having upper and lower pulleys (10) mounted on upper and lower brackets (4) respectively, and the lower pulleys (10) and the lower bracket (4) being mounted on an outer surface of the main hub (5) as claimed. Applicant fails to define the European Patent teaches a plurality of lines extending between the upper and lower pulleys. In fact, European Patent teaches, as old and well known way, there is a single line (11) having one end (11a) being connected to the upper bracket, and then extending and running between, up and down in order, the upper and lower pulleys, and having another free end (11b) extending outwardly from the last pulley to be wedged by a device such as a cam cleat member (13) as claimed to maintain the umbrella in an open position (see Fig. 3) and being tied to a lower support in a closed position (see Fig. 2). Therefore, the European Patent is considered being read on the claimed invention. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

7. In response to applicant's argument that the reference to European Patent fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., structure allowing the hub member to rotate about the pole) are not recited in the rejected claim 26. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Therefore, rejection under European patent is still granted.

Art Unit: 3636

***ACTION IS FINAL***

8. Applicant's amendment necessitated the new grounds of rejection. Accordingly, THIS ACTION IS MADE FINAL. See M.P.E.P. ' 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. ' 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. ' 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

***Inquiry Contacts***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 571-272-6870. The examiner can normally be reached on M-F (9:30-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3636

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Winnie Yip  
Primary Examiner  
Art Unit 3636

wsy  
April 14, 2006



Application No. 10/946,582  
Office Action dated July 20, 2005  
Reply to Office Action dated January 27, 2006  
Annotated Sheet Showing Changes

*approved*  
*4/14/06*

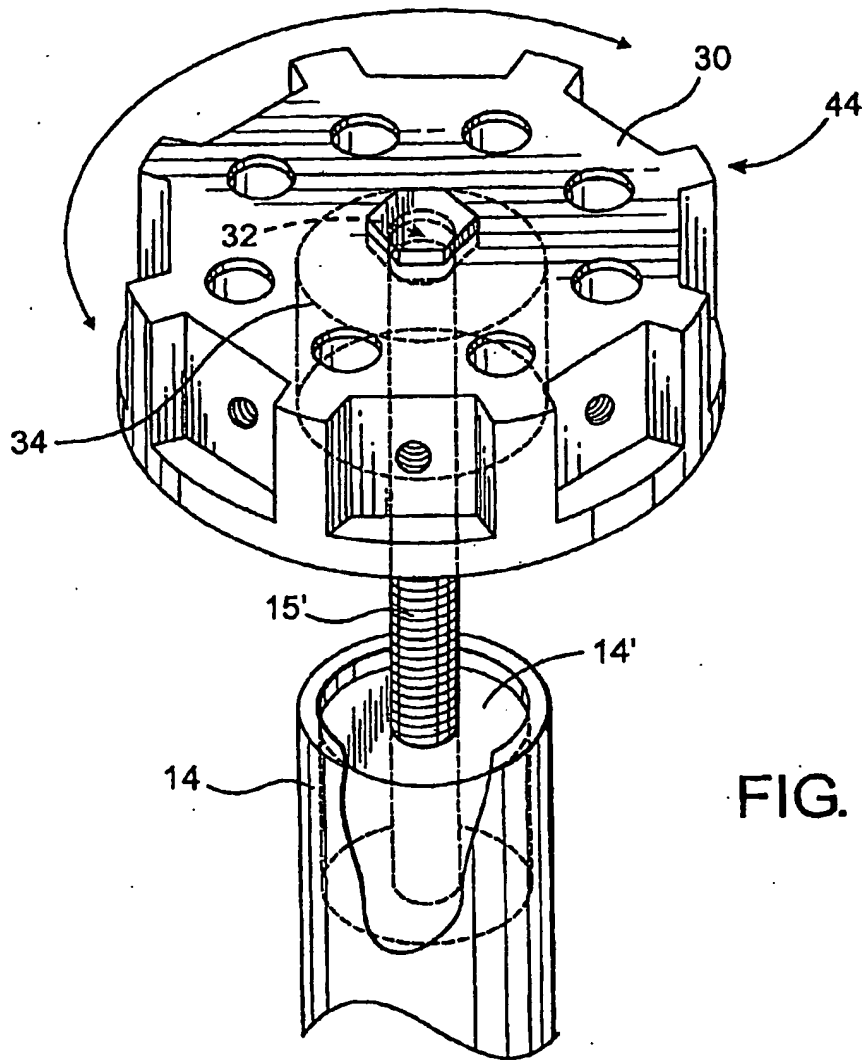


FIG. 17